

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

J.D. HOOPER, )  
 )  
 Plaintiff, )  
 )  
 v. ) Case No. CIV-22-988-D  
 )  
 JOHN KEVIN STITT, )  
 )  
 Defendant. )

## ORDER

Before the Court is the Report and Recommendation [Doc. No. 4] issued by United States Magistrate Judge Shon T. Erwin pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Judge Erwin recommends that the Court dismiss Plaintiff's complaint with prejudice. Plaintiff timely filed an objection. *See* [Doc. No. 5]. Thus, the Court must conduct a *de novo* review of the issues specifically raised by the objection, and may accept, modify, or reject the recommended decision. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Judge Erwin recommends dismissal of Plaintiff's complaint for failure to state a claim under 42 U.S.C. § 1983. *See* R. & R. at 6 ("[I]njunctive relief requesting immediate release from custody is not a cognizable claim for relief in a § 1983 action.") (quoting *Graham v. Waters*, 805 F. App'x 572, 579 (10th Cir. 2020)); *see id.* at n.2 ("[A]ny request for declaratory relief in relation to [an invalid claim] is not viable.") (citing *Long v. Wells Fargo Bank, N.A.*, 670 F. App'x 670, 671-72 (10th Cir. 2016)).

In his objection, Plaintiff generally ignores Judge Erwin's analysis and repeats, verbatim, many of the arguments previously presented in his complaint. *Compare* Pl.'s

Compl. [Doc. No. 1] at 5-21, 23, *with* Pl.’s Objection [Doc. No. 5] at 2, 5-22. The Court finds that Plaintiff’s failure to identify any specific error in Judge Erwin’s analysis prevents further review. *See United States v. 2121 E. 30th St.*, 73 F.3d 1057, 1060 (10th Cir. 1996) (“[A] party’s objections to the magistrate judge’s report and recommendation must be both timely and specific to preserve an issue for de novo review by the district court.”).

The Court, having conducted a *de novo* review after assessing the entirety of the report and recommendation and the case record, finds that Plaintiff’s Objection [Doc. No. 5] should be overruled. The Report and Recommendation [Doc. No. 4] is **ADOPTED** in its entirety.

**IT IS THEREFORE ORDERED** that Plaintiff’s claims are **DISMISSED WITH PREJUDICE**. A separate judgment of dismissal shall be entered.

**IT IS SO ORDERED** this 9<sup>th</sup> day of March, 2023.



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TIMOTHY D. DeGIUSTI  
Chief United States District Judge